

REMARKS

By the present amendment, claims 18, 41, 43, 44, 49 and 51-54 have been amended.

Claims 18-33 and 41-54 remain pending in the application. Claims 1-17 and 34-40 were previously canceled. Reconsideration and allowance of all of the claims is respectfully requested in view of the following remarks.

In regard to Rejection of claims 18, 19 and 22-29 Under 35 USC § 102(b)

The Examiner has rejected claims 18, 19 and 22-29 under 35 U.S.C. § 102(b), as being anticipated by Herrera, U.S. Patent No. 6,358,106. The Applicants disagree.

Claim 18 recites:

the midsection cover having a first contour defining a first volume between the midsection and the midsection cover;

Bearing this in mind, the Examiner's attention is directed to the following feature of claim 18:

a first silencer filling a majority of the first volume;

The Applicants submit that at least the above feature of claim 18 is not taught by Herrera.

Referring to lines 65-5 of columns 3-4 of Herrera,

In accordance with the preferred embodiment of the invention, the inner surfaces of the port lower motor cover part 22 are blanketed with a vibro-acoustic treatment 38, as shown in FIG. 5, and the inner surfaces of the starboard lower motor cover part are blanketed with a similar vibro-acoustic treatment (not shown). In addition, the inner surfaces of the upper motor cover are also blanketed with a vibro-acoustic treatment.

Referring also to lines 17-23 of column 4 of Herrera,

The structure of the vibro-acoustic composite material in accordance with the preferred embodiment of the invention is

depicted in FIG. 6. The composite material comprises a sheet of moldable acoustic barrier-like material 44 adhered to an inner surface of a motor cover or motor cover part 46 by means of a layer of visco-elastic pressure-sensitive adhesive material 48.

Referring also to Figure 5 of Herrera, it is apparent that the vibro-acoustic treatment 38 of Herrera is a thin sheet of uniform thickness applied to the inner surfaces of the port and starboard lower motor covers of Herrera. The vibro-acoustic treatment 38 of Herrera forms a thin layer that adheres to the inner surface of the respective motor cover, and as such does not occupy a significant portion of the volume between the lower motor cover of Herrera and the midsection of the propulsion unit of Herrera. Therefore, the vibro-acoustic treatment 38 of Herrera does not fill “a majority of the first volume” as claimed, i.e. a majority of the volume between the midsection and the midsection cover.

Therefore, at least one feature of claim 18 is not taught by Herrera. As such, the Examiner is requested to withdraw his rejection of claim 18 and claims 19 and 22-29 depending therefrom.

In regard to Rejection of claims 41-47 Under 35 USC § 102(b)

The Examiner has rejected claims 41-47 under 35 U.S.C. § 102(b), as being anticipated by Herrera. The Applicants disagree.

Claim 41 recites:

a cover disposed about the engine and enclosing a volume therebetween;

Bearing this in mind, the Examiner's attention is directed to the following feature of claim 41:

a vibro-acoustic treatment disposed within the volume and shaped to substantially match a shape of the volume.

The Applicants submit that at least the above feature of claim 41 is not taught by Herrera.

Referring to lines 65-5 of columns 3-4 of Herrera,

In accordance with the preferred embodiment of the invention, the inner surfaces of the port lower motor cover part 22 are

blanketed with a vibro-acoustic treatment 38, as shown in FIG. 5, and the inner surfaces of the starboard lower motor cover part are blanketed with a similar vibro-acoustic treatment (not shown). In addition, the inner surfaces of the upper motor cover are also blanketed with a vibro-acoustic treatment.

Referring also to lines 17-23 of column 4 of Herrera,

The structure of the vibro-acoustic composite material in accordance with the preferred embodiment of the invention is depicted in FIG. 6. The composite material comprises a sheet of moldable acoustic barrier-like material 44 adhered to an inner surface of a motor cover or motor cover part 46 by means of a layer of visco-elastic pressure-sensitive adhesive material 48.

It is apparent that the vibro-acoustic treatment 38 of Herrera is a thin sheet of uniform thickness applied to the inner surfaces of the upper motor cover of Herrera. The vibro-acoustic treatment 38 of Herrera forms a thin layer that adheres to the inner surface of the respective motor cover, and as such does not have a shape that substantially matches the shape of the volume between the lower motor cover of Herrera and the midsection of the propulsion unit of Herrera. Therefore, the vibro-acoustic treatment 38 applied to the inner surface of the motor covers of Herrera is not “shaped to substantially match a shape of the volume” as claimed, i.e. a shape of the volume between the cover and the engine..

Therefore, at least one feature of claim 41 is not taught by Herrera. As such, the Examiner is requested to withdraw his rejection of claim 41 and claims 42-47 depending therefrom.

In regard to Rejection of claims 49-51 and 53 Under 35 USC § 102(b)

The Examiner has rejected claims 49-51 and 53 under 35 U.S.C. § 102(b), as being anticipated by Herrera. The Applicants disagree.

Claim 49 recites:

a lower motor cover disposed about a midsection and forming a volume therebetween;

Bearing this in mind, the Examiner’s attention is directed to the following feature of claim 49:

a shaped lower silencer having a shape that substantially matches a shape of the volume,

The Applicants submit that at least the above feature of claim 49 is not taught by Herrera.

Referring to lines 65-5 of columns 3-4 of Herrera,

In accordance with the preferred embodiment of the invention, the inner surfaces of the port lower motor cover part 22 are blanketed with a vibro-acoustic treatment 38, as shown in FIG. 5, and the inner surfaces of the starboard lower motor cover part are blanketed with a similar vibro-acoustic treatment (not shown). In addition, the inner surfaces of the upper motor cover are also blanketed with a vibro-acoustic treatment.

Referring also to lines 17-23 of column 4 of Herrera,

The structure of the vibro-acoustic composite material in accordance with the preferred embodiment of the invention is depicted in FIG. 6. The composite material comprises a sheet of moldable acoustic barrier-like material 44 adhered to an inner surface of a motor cover or motor cover part 46 by means of a layer of visco-elastic pressure-sensitive adhesive material 48.

Referring also to Figure 5 of Herrera, it is apparent that the vibro-acoustic treatment 38 of Herrera is a thin sheet of uniform thickness applied to the inner surfaces of the port and starboard lower motor covers of Herrera. The vibro-acoustic treatment 38 of Herrera forms a thin layer that adheres to the inner surface of the respective motor cover, and as such does not have a shape that substantially matches the shape of the volume between the lower motor cover of Herrera and the midsection of the propulsion unit of Herrera. Therefore, the vibro-acoustic treatment 38 applied to the inner surface of the motor covers of Herrera cannot have “a shape that substantially matches a shape of the volume” as claimed, i.e. the shape of the volume between the lower motor cover and the midsection.

Therefore, at least one feature of claim 49 is not taught by Herrera. As such, the Examiner is requested to withdraw his rejection of claim 49 and claims 50, 51 and 53 depending therefrom.

In regard to Rejection of claims 20, 21, 30-33 and 48 Under 35 USC § 103(a)

The Examiner has rejected claims 20, 21, 30-33 and 48 under 35 U.S.C. § 103(a), as being unpatentable over Herrera. The Applicants disagree.

The Examiner's attention is directed to the following feature of claim 18:

a first silencer filling a majority of the first volume;

As discussed above with respect to claims 18, 19 and 22-29, the above feature of claim 18 is not taught by Herrera.

This deficiency in Herrera is not remedied by the Examiner's assertions that

for higher capacity engines emitting louder noise, the claimed density selection for the respective silencers is considered to be an obvious design choice. It would have been obvious for an artisan to make the silencers with substantially higher density, such as with a density in the range of approximately twenty-two pounds per cubic foot. Choosing such a density would have been desirable because it would have provided maximum noise reduction without adding too much weight to the outboard motor or without adversely affecting the engine performance. Regarding the level of noise produced by the motor at a specific rpm, it is noted that such is a function of diverse factors – such as the age and maintenance condition of the engine, the gear/transmission ratio, the load on the engine, the fuel and lubricant used, the condition of the air intake and exhaust systems, the atmospheric temperature condition at the time of engine startup or running etc. Therefore, it would have been inherent for the engine to emit a noise corresponding to the specific rpm, as being claimed, for a certain combination of such diverse factors.

The Applicants do not admit the correctness of the Examiner's assertions, and reserve the right to argue thereagainst in the future.

Therefore, at least one feature of claim 18 is not taught by Herrera or the Examiner's assertion, alone or in combination, without admitting the correctness of the Examiner's assertion. As such, the Examiner is requested to withdraw his rejection of claims 20, 21, 30-33 and 48 depending from claim 18.

In regard to Rejection of claims 52 and 54 Under 35 USC § 103(a)

The Examiner has rejected claims 52 and 54 under 35 U.S.C. § 103(a), as being unpatentable over Herrera. The Applicants disagree.

The Examiner's attention is directed to the following feature of claim 49:

a shaped lower silencer having a shape that substantially matches a shape of the volume,

As discussed above with respect to claims 49-51 and 53, the above feature of claim 18 is not taught by Herrera.

This deficiency in Herrera is not remedied by the Examiner's assertion that

for higher capacity engines emitting louder noise, the claimed density selection for the respective silencers is considered to be an obvious design choice. It would have been obvious for an artisan to make the silencers with substantially higher density, such as with a density in the range of approximately twenty-two pounds per cubic foot. Choosing such a density would have been desirable because it would have provided maximum noise reduction without adding too much weight to the outboard motor or without adversely affecting the engine performance.

The Applicants do not admit the correctness of the Examiner's assertion, and reserve the right to argue thereagainst in the future.

Therefore, at least one feature of claim 49 is not taught by Herrera or the Examiner's assertion, alone or in combination, without admitting the correctness of the Examiner's assertion. As such, the Examiner is requested to withdraw his rejection of claims 52 and 54 depending from claim 49.

Miscellaneous Amendments

By the present amendment, claims 18, 41, 43, 44, 49 and 51-54 have been amended to replace the term "molded" with "shaped". This is believed to be a broadening amendment, and is not being made for reasons relating to patentability.

In view of the above remarks, the Applicants respectfully submit that all of the currently pending claims are allowable and that the entire application is in condition for allowance.

Should the Examiner believe that anything further is desirable to place the application in a better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

At the time of filing of the present response, no fees were believed to be necessary. In case any fee should be necessary, the Office is hereby authorized to debit Deposit Account number 502977.

Respectfully submitted,

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